

**United States District Court**  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JOSHUA A. WILSON, et al.,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	Civil Action No. 4:22-CV-438
	§	Judge Mazzant
LLOYD AUSTIN, III, et al.,	§	
	§	
<i>Defendants.</i>	§	
	§	

**ORDER**

Pending before the Court is Plaintiffs’ Motion for Reconsideration of Court’s Grant of Defendants’ Motion to Dismiss (Dkt. #63). Plaintiffs ask the Court to reconsider its prior decision dismissing all of Plaintiffs’ claims based on the Fifth Circuit’s recent case of *Apter v. Dep’t of Health and Hum. Servs.* (see generally Dkt. #63). 80 F.4th 579 (5th Cir. 2023). In *Apter*, the Fifth Circuit reversed the dismissal of the plaintiffs’ *ultra vires* claims and remanded the case to the district court to address standing. *Id.* However, *Apter* does not address the issue of mootness.<sup>1</sup> *Id.* The Court dismissed all of Plaintiffs’ claims in its prior decision because all of Plaintiffs’ claims are moot (Dkt. #61 at pp. 10–16). Therefore, *Apter* does not impact the Court’s analysis and the Court denies Plaintiffs’ motion for reconsideration.

---

<sup>1</sup> Plaintiffs support their argument by claiming that the district court in the case underlying *Apter* believed that the plaintiffs lacked standing via a finding of mootness, which the Fifth Circuit disagreed with (Dkt. #63 at p. 7). This claim is incorrect because the district court in the decision underlying *Apter* never considered or even mentioned the issue of mootness. *Apter v. Dep’t of Health and Hum. Servs.*, 644 F. Supp.3d 361 (S.D. Tex. 2022), *rev’d* 80 F.4th 579.

It is therefore **ORDERED** that Plaintiffs' Motion for Reconsideration of Court's Grant of Defendants' Motion to Dismiss (Dkt. #63) is **DENIED**.

**IT IS SO ORDERED.**

**SIGNED** this 8th day of August, 2024.

  
\_\_\_\_\_  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE